

Amendment

U.S. Patent Application No. 10/043,288

REMARKS

Claims 7-12 are pending in the subject application. Claims 1-6, which were withdrawn as non-elected claims from a previous restriction requirement, have been canceled without prejudice or disclaimer of the subject matter thereof. Applicant reserves the right to pursue the subject matter of the canceled claims in one or more continuation and/or divisional applications.

Claims 7-12 stand rejected. Favorable reconsideration of the application and allowance of all of the pending claims are respectfully requested in view of the following remarks.

Claims 7 and 9-12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0063364 (Taylor et al.); claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Taylor et al. and further in view of U.S. Patent No. 5,700,491 (Herwegh et al.); and claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Taylor et al. and further in view of U.S. Patent No. 5,466,410 (Hills et al.). Applicant respectfully traverses these rejections based upon the following remarks.

Regarding the rejection of claims 7 and 9-12 based upon Taylor et al., Applicants submit herewith two Declarations under 37 C.F.R. § 1.131, executed by the inventors of the claimed subject matter. These Declarations establish that the claimed invention was conceived prior to August 3, 2000, and that due diligence was exercised from the conception date to the actual reduction to practice date as well as the constructive reduction to practice date (i.e., the priority date of the subject application). Accordingly, Taylor et al. does not satisfy the requirements of a prior art reference (i.e., as defined under 35 U.S.C. §§ 102(a) and/or 102(e)) under 35 U.S.C. § 103(a), and the Examiner is requested to withdraw the rejection of these claims based upon this reference.

The further rejections to claims 8 and 9 are also based upon utilizing Taylor et al. as the primary reference. Accordingly, the Examiner is requested to withdraw these rejections based upon the previous remarks.

In view of the foregoing, the Examiner is respectfully requested to find the application to be in condition for allowance with claims 7-12. However, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested

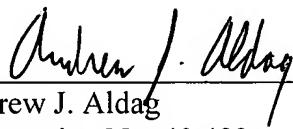
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to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application.

A petition for a three month extension of time, along with the large entity extension of time fee, is being submitted along with this Amendment. Applicant hereby petitions for any additional extension of time that may be required to maintain the pendency of this case, and any required fee for such extension is to be charged to Deposit Account No. 05-0460.

Respectfully submitted,



Andrew J. Aldag
Registration No. 40,483

EDELL, SHAPIRO & FINNAN, LLC
1901 Research Boulevard, Suite 400
Rockville, Maryland 20850-3164
(301) 424-3640
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